

CHAPTER NO. 42.

National Court Assessors (T.N.G.).

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), while the administration of this Chapter was not vested specifically in any Minister, it appears from the determination of the functions of Departments that it was the responsibility of the Department of Justice.

The Chapter does not refer to "the Minister", "the Departmental Head" or "the Department".

TABLE OF CONTENTS.

	<i>Page.</i>
<i>National Court Assessors Act (T.N.G.)</i>	3
<i>National Court Assessors Regulation (T.N.G.)</i>	7
Subsidiary Legislation	—
Appendixes—	
1. Source of Act.	
2. Source of Regulation.	

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 42.

National Court Assessors Act (T.N.G.).

ARRANGEMENT OF SECTIONS.

1. Constitutional limitation on application of Act.
2. Interpretation—
“civil proceedings”
“the Court”.
3. Appointment of assessors by the Court.
4. Attendance by assessors at Court.
5. Duties of assessors.
6. Oath and affirmation.
7. Payment of assessors.
8. Offences by assessors.
9. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 42.

National Court Assessors Act (T.N.G.).

Being an Act applying in and to the former Territory of New Guinea, to provide for the appointment of assessors at trials in the National Court.

1. Constitutional limitation on application of Act.

By virtue of Section Sch. 2.6(2) (*adoption of pre-Independence laws*) of the Constitution, this Act applies in relation to the area that, immediately before Independence Day, formed the Territory of New Guinea.

2. Interpretation.

In this Act, unless the contrary intention appears—

“civil proceedings” includes any suit, action or original proceedings between parties other than criminal proceedings;

“the Court” means the National Court.

3. Appointment of assessors by the Court.

(1) In any criminal proceedings pending in the Court, the Public Prosecutor or the accused person may, before or during trial, apply to the Court or a Judge for the appointment of assessors at the trial.

(2) In any civil proceedings pending in the Court, a plaintiff or defendant may, before or during trial, apply to the Court or a Judge for the appointment of assessors at the trial.

(3) On an application being made under Subsection (1) or (2), or of its or his own motion, the Court or Judge may appoint not more than two assessors.

(4) Where on an application being made under Subsection (1) or (2), in any proceedings in which natives¹ are interested, the Court or Judge refuses to appoint assessors, the Court or Judge shall refer the application to the Head of State, acting on advice, who may, if he thinks fit, appoint assessors.

4. Attendance by assessors at Court.

Every assessor shall—

(a) attend the Court at the time and place set out in the notice of his appointment; and

(b) remain in Court until—

(i) the termination of the trial at which he has been appointed an assessor;
or

(ii) the Court grants him permission to depart,

whichever first happens.

¹ See pre-Independence *Ordinances Interpretation Act 1949-1973*, Section 55(2) and *Interpretation Act*, Section 98(1).

5. Duties of assessors.

When required by the Court, assessors shall give their opinion on any matters of fact, custom or usage, or any other matters, arising out of the evidence given at the trial, but shall not adjudicate in any proceedings before the Court.

6. Oath and affirmation.

An assessor shall, before entering on his duties at a trial, take an oath or affirmation in the prescribed form.

7. Payment of assessors.

Assessors shall be paid such fees and expenses as are prescribed.

8. Offences by assessors.

A person appointed an assessor who, without reasonable excuse, fails to attend the Court as required, or neglects or refuses to perform the duties of assessor, is liable to a fine not exceeding K100.00, which may be imposed immediately by the Court and, in default of payment within such time as the Court orders, may, by warrant under the hand of a Judge, be recovered by levy and distress of his goods.

9. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing the fees and expenses to be paid to assessors and the fees to be paid by the parties in any proceedings in which assessors are applied for and appointed.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 42.

National Court Assessors Regulation (T.N.G.).

ARRANGEMENT OF SECTIONS.

1. Constitutional limitation on application of this Regulation.
2. Interpretation—
“the Senior Magistrate”.
3. Qualifications.
4. Lists of assessors.
5. Removal of name from list.
6. Selection for sittings.
7. Notice of selection.
8. Selection for trial.
9. Attendance at adjourned trial.
10. Excuse from attendance.
11. Absence of assessor.
12. Payment of assessors.
13. Oath and affirmation.
14. Court fee in civil proceedings.

SCHEDULES.

SCHEDULE 1.—

FORM 1.—Notice of Selection of Assessors.

SCHEDULE 2.—Oath and Affirmation.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 42.

National Court Assessors Regulation (T.N.G.).

MADE under the *National Court Assessors Act (T.N.G.)*.

1. Constitutional limitation on application of this Regulation.

By virtue of Section Sch.2.6(2) (*adoption of pre-Independence laws*) of the Constitution, this Regulation applies in relation to the area that, immediately before Independence Day, formed the Territory of New Guinea.

2. Interpretation.

In this Regulation, unless the contrary intention appears "the Senior Magistrate", in relation to a province, means the Senior Magistrate appointed for the province under Section 8 of the *Magisterial Service Act*.

3. Qualifications.

(1) Subject to Subsection (2), a person who—

- (a) is between the ages of 25 and 55 years; and
- (b) is of good fame and character; and
- (c) is able to speak and read *Pisin* or English,

is eligible for appointment as an assessor.

(2) A person who—

- (a) is an elected or appointed member of the Parliament, an Area Authority or a provincial government body; or
- (b) is an officer or employee of the Public Service; or
- (c) is a member of the Police Force, the Defence Force or the Corrective Institutions Service; or
- (d) is a Judge or a Magistrate of a District Court or of a Local Court; or
- (e) is a clergyman or minister of religion; or
- (f) is a medical practitioner; or
- (g) is a member of an associated health service referred to in Section 23(a)-(j) of the *Medical Services Act* and is enrolled or registered under that Act; or
- (h) is a practising lawyer; or
- (i) has at any time been convicted of an indictable offence,

is not eligible for appointment as an assessor.

4. Lists of assessors.

(1) The Senior Magistrate shall, on receiving a written notice from the Chief Justice, compile a list of persons who are—

- (a) ordinarily resident within 15km of any court house, nominated by the Chief Justice in the notice, at which the Court from time to time sits; and
- (b) eligible for appointment as assessors.

(2) A list compiled under Subsection (1) shall set out the name, address and occupation of each person on the list.

(3) After compilation, each list of assessors shall be forwarded to the Chief Justice for—

- (a) his approval, or his revision and approval; and
- (b) his signature after approval.

(4) The list of assessors signed by the Chief Justice shall be returned to the Senior Magistrate who shall publish it—

- (a) by affixing a copy of it to the notice board—
 - (i) of the court house nominated by the Chief Justice under Subsection (1); and
 - (ii) of the District Office for the province in which the court house is located; and
 - (iii) of the Subdistrict Office for the Subdistrict in which the court house is located; and
 - (iv) of the Patrol Post Office (if any) for the Patrol Post area in which the court house is located; and
- (b) by sending a copy to the Local Government Council or Councils for the area in which the court house is located; and
- (c) in any other manner that the Chief Justice directs.

(5) The list published under Subsection (4) is the list of assessors for the purposes of any trial by the Court in which the assistance of assessors is required at the place in respect of which it was prepared, from the date of publication until the publication of the next list for that place.

5. Removal of name from list.

(1) On being satisfied that any person whose name is contained in a list of assessors signed by the Chief Justice is not suitable to serve as an assessor, a Judge may cause his name to be removed from the list.

(2) Where—

- (a) the name of a person who is not eligible for appointment under Section 3 appears on a list of assessors; and
- (b) he requests, by written notice to the Senior Magistrate, that his name be removed; and
- (c) the Senior Magistrate is satisfied that he is not eligible for appointment,

the Senior Magistrate shall submit the request to the Chief Justice.

(3) If the Chief Justice approves a request made under Subsection (2), the Senior Magistrate shall remove the name from the list.

6. Selection for sittings.

(1) The Registrar of the National Court shall inform the Senior Magistrate by telephone, telegram or letter of—

- (a) the number of assessors; or
- (b) the names of the persons on the list of assessors,

whose attendance is required by the Court at any sittings of the Court.

(2) If a number of assessors is specified under Subsection (1)(a), the Senior Magistrate shall select the names of the required number from the list of assessors.

7. Notice of selection.

(1) A notice of selection of an assessor under Section 6 shall be in the form in Schedule 1.

(2) A notice of selection shall be signed by a Judge, the Registrar of the National Court or the Senior Magistrate.

(3) A copy of the notice of selection of an assessor shall be served personally on the person selected as an assessor not less than 24 hours before the time fixed for the commencement of the sittings of the Court specified in the notice.

8. Selection for trial.

(1) When a trial is to be held with the aid of assessors, the presiding Judge shall select from the persons selected under Section 6 for the sittings two assessors to assist him at the trial.

(2) The person charged, or counsel for the prosecution, may object to an assessor, and if the Court is satisfied that the grounds for the objection are reasonable it shall not permit the assessor to sit, and shall select another assessor in his place.

9. Attendance at adjourned trial.

If a trial is adjourned, the assessors selected to sit with the Judge at the trial shall attend at the adjourned hearing and any subsequent hearing until the conclusion of the trial.

10. Excuse from attendance.

The Court may—

- (a) for reasonable cause excuse an assessor from attendance at a specified hearing; and
- (b) at the conclusion of a trial, direct that the assessors who have served at the trial shall not be required to serve again as assessors for a period of 12 months or such longer period as the Court allows.

11. Absence of assessor.

Where an assessor—

- (a) is absent by permission of the Court; or
 - (b) absents himself and it is not practicable to immediately enforce his attendance,
- the trial shall proceed with the aid of the other selected assessor (if any) or, if both assessors are absent, without assessors.

12. Payment of assessors.

(1) An assessor shall be paid a fee of K4.20 for each day on which he is required to attend, and does attend, a sitting of the Court.

(2) Subject to Subsection (3), where transport is not provided by the Government, an assessor shall be paid an allowance at the rate of K0.30 for each kilometre in excess of the first 2km that he is required to travel to attend the Court.

(3) An allowance under Subsection (2) shall be calculated in relation to travel one way only.

13. Oath and affirmation.

The prescribed form of oath or affirmation under Section 6 of the Act shall be in the form in Schedule 2.

14. Court fee in civil proceedings.

(1) Where a party to any proceedings (other than criminal proceedings) pending in the Court applies to the Court, a Judge or the Registrar of the National Court for the appointment of assessors at the trial, he shall, at the time of making the application, deposit a fee of K14.00 with the Registrar.

(2) The fee referred to in Subsection (1) shall be used towards payment of court costs (if any), and any balance shall be refunded to the applicant.

(3) The applicant, or the other party to the proceedings or his lawyer, may object to an assessor, and if the Court is satisfied that the grounds for the objection are reasonable it shall not permit the assessor to sit, and shall select another assessor in his place.

SCHEDULES.

SCHEDULE 1.

PAPUA NEW GUINEA.

National Court Assessors Act (T.N.G.).

Reg., Sec. 7.

Form 1.

NOTICE OF SELECTION OF ASSESSORS.

(Title of Case.)

To of

You have been selected to be an assessor at the trial of the above-named case. You are to attend at a.m./p.m. on 19, at the Court House at, and remain in the Court until the end of the trial or until the Court allows you to leave, whichever first occurs.

Dated 19

Judge/Registrar/Senior Magistrate.*

* Strike out whichever is inapplicable.

SCHEDULE 2.

Act, Sec. 6.

Reg., Sec. 13.

OATH AND AFFIRMATION.

Oath.

I, _____, swear that I will well and truly carry out my duties as an assessor under the *National Court Assessors Act (T.N.G.)*.

So help me God!

Affirmation.

I, _____, solemnly and sincerely promise and declare that I will well and truly carry out my duties as an assessor under the *National Court Assessors Act (T.N.G.)*.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 42.

National Court Assessors (T.N.G.)

APPENDIXES.

APPENDIX 1.

SOURCE OF THE NATIONAL COURT ASSESSORS ACT (T.N.G.).

Part A.—Previous Legislation.

Supreme Court Assessors Act 1925 of the Territory of New Guinea (No. 42 of 1925)
as amended by—

Supreme Court Assessors Act 1936 (No. 41 of 1936)

Supreme Court Assessors Act 1938 (No. 28 of 1938).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
1	—
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9

¹ Unless otherwise indicated, references are to the Act set out in Part A.

APPENDIX 2.

SOURCE OF THE NATIONAL COURT ASSESSORS REGULATION.

Part A.—Previous Legislation.

Supreme Court Assessors Regulation 1975 (Statutory Instrument No. 35 of 1975).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
1	—
2	1
3	2
4	3(1)-(4)
5	3(5), (6)
6	4
7	5, 6
8	7
9	8
10	9
11	10
12	11
13	Act, Sec. 6
14	12
Schedule 1.	Schedule 1.
Schedule 2.	Act, Schedule.

¹ Unless otherwise indicated, references are to the regulations set out in Part A.